

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

In re: PHARMACEUTICAL INDUSTRY	)	
AVERAGE WHOLESale PRICE	)	
LITIGATION	)	MDL No. 1456
_____	)	Civil Action No. 01-12257-PBS
	)	Subcategory No. 06-11337
<b>THIS DOCUMENT RELATES TO:</b>	)	
<i>United States of America ex rel. Ven-a-Care of</i>	)	Judge Patti Saris
<i>The Florida Keys, Inc., v. Abbott Laboratories,</i>	)	Magistrate Judge Marianne Bowler
<i>Inc.,</i>	)	
CIVIL ACTION NO. 06-11337-PBS	)	

**CORRECTED MOTION BY THE UNITED STATES TO QUASH OUT-OF-TIME  
DEPOSITION NOTICES SERVED BY ABBOTT LABORATORIES  
OR, IN THE ALTERNATIVE, FOR A PROTECTIVE ORDER**

On December 4, 2008, the Magistrate Judge issued oral rulings which allowed defendant Abbott Laboratories Inc. (Abbott) to depose (1) two employees in CMS's Office of Legislation and (2) a witness or witnesses selected by the United States to testify concerning certain Rule 30(b)(6) topics. On September 30, 2009, Abbott served notices which purportedly schedule the depositions noted above for October 14, 15 and 16, 2009 – that is, over ten months after the Magistrate Judge's December 2008 rulings.

For reasons more fully set forth in the accompanying legal memorandum, the Court should quash the deposition notices which are untimely, disruptive, and in derogation of scheduling orders issued by the District Court. In the alternative, the Court should enter a protective ordering barring the depositions.

Respectfully Submitted,

For the United States of America,

MICHAEL K. LOUCKS  
ACTING UNITED STATES ATTORNEY

TONY WEST  
ASSISTANT ATTORNEY GENERAL

---

George B. Henderson, II  
Assistant U.S. Attorney  
John Joseph Moakley U.S. Courthouse  
Suite 9200, 1 Courthouse Way  
Boston, MA 02210  
Phone: (617) 748-3272  
Fax: (617) 748-3971

JEFFREY H. SLOMAN  
ACTING UNITED STATES ATTORNEY  
SOUTHERN DISTRICT OF FLORIDA

---

/s/ Justin Draycott  
Joyce R. Branda  
Daniel R. Anderson  
Renée Brooker  
Justin Draycott  
Rebecca Ford  
Civil Division  
Commercial Litigation Branch  
P. O. Box 261  
Ben Franklin Station  
Washington, D.C. 20044  
Phone: (202) 307-1088  
Fax: (202) 307-3852

---

Mark A. Lavine  
Ann St. Peter-Griffith  
Special Attorneys for the Attorney General  
99 N.E. 4th Street, 3rd Floor  
Miami, FL 33132  
Phone: (305) 961-9003  
Fax: (305) 536-4101

October 7, 2009

**CERTIFICATE PURSUANT TO LOCAL RULE 7.1**

I hereby certify that I have communicated with counsel for defendant Abbott Laboratories in an effort to resolve the disputes referred to in this motion, and that the parties have not been able to narrow or resolve the issues raised therein.

/s/ Justin Draycott  
Justin Draycott

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day caused an electronic copy of the above UNITED STATES' MOTION TO QUASH OUT-OF-TIME DEPOSITION NOTICES SERVED BY ABBOTT LABORATORIES OR, IN THE ALTERNATIVE, FOR A PROTECTIVE ORDER to be served on all counsel of record via electronic service pursuant to Paragraph 11 of Case Management Order No. 2 by sending a copy to LexisNexis File & Serve for posting and notification to all parties.

Date: October 7, 2009

/s/Justin Draycott  
Justin Draycott